



**THE ATTORNEY GENERAL
OF TEXAS**

GERALD C. MANN

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable Ernest Guinn
County Attorney
El Paso County
El Paso, Texas

This Opinion
Modifies Opinion dated
4/8/36

Dear Sir:

Opinion No. 0-3235
Re: Residence qualifica-
tions of persons en-
titled to vote for
county school trustees.

We are in receipt of your recent request for our opinion with reference to the residence qualifications of persons entitled to vote for county school trustees.

Article 2676, R. C. S. 1925, as amended, Acts 1934, 43rd Leg., 2nd C.S., Ch. 28, p. 108, provides:

"The general management and control of the public free schools and high schools in each county, unless otherwise provided by law shall be vested in five (5) county school trustees elected from the county, one of whom shall be elected from the county at large by the qualified voters of the common and consolidated independent school districts of the county, and one from each Commissioners' Precinct by the qualified voters of each Commissioners' Precinct, who shall hold office for a term of two years. The time for such election shall be the first Saturday in April of each year; the order for the election of county school trustees to be made by the county judge at least thirty days prior to the date of said election, and such order shall designate one voting place for each common school district. The election officer appointed to hold the election for trustees in each common school district shall hold the election at the same place therein for the county school trustees. Each year there shall be elected

alternately two (2) county school trustees and three (3) county school trustees in each county. The State Superintendent shall prepare a proper form of the ballot to be used in such election and such other explanation of the laws as he deems necessary, and transmit the same to the county judge of each county at least sixty days prior to the date of such election. All vacancies shall be filled by the remaining trustees. * * * (Under-scoring ours)

This article expressly provides that the county trustee at large shall be elected "by the qualified voters of the common and consolidated independent school districts of the county". Our opinion No. 0-2066, a copy of which has been forwarded to you, supports the conclusion that this provision is controlling over Section 8, of Acts 1927, 40th Leg., 1st C.S., Ch. 84, page 228 (Article 2742a, Section 8, Vernon's Texas Civil Statutes).

The above quoted statute further provides that one county trustee shall be elected "from each Commissioners' Precinct by the qualified voters of each Commissioners' Precinct", without further limitation. It was ruled by this department in opinions dated February 9, 1935, to G. M. Mann, Letter Book 360, page 927, and March 30, 1932, to H. H. Schuemann, Letter Book 332, page 763, that qualified resident voters in independent school districts are eligible to vote for the county school trustees elected from the Commissioners' Precincts; the requirement only being that they be qualified voters of a Commissioners' Precinct. A similar ruling was made in an opinion dated April 8, 1936, addressed to Honorable Harry J. Schulz, however, in this opinion it was stated that persons residing in municipally controlled districts may not vote for county school trustees for their Commissioners' Precincts, notwithstanding the opinion recognized that Article 2676 "specifically authorizes all qualified voters within the Commissioners' Precinct to vote in said election." We do not agree with the distinction made in that opinion between municipally controlled and other independent school districts, since the statute makes no such provision.

It is our opinion that only qualified voters of the common and consolidated independent school districts of the county may vote for county school trustee

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at large and that all qualified voters of the Commissioners' Precincts of the county may vote for the county school trustee from their respective precincts without reference to whether such voters reside in common or independent school districts of whatsoever nature.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Cecil C. Cammack
Cecil C. Cammack
Assistant

CCC:LM;LM

APPROVED MAR 31, 1941

/s/ Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

APPROVED
OPINION
COMMITTEE

BY BWB
CHAIRMAN

O.K.
GRL